

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

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THIS DOCUMENT RELATES TO ALL  
CLASS ACTIONS

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)  
) MDL No. 1456

)  
) CIVIL ACTION: 01-CV-12257-PBS

)  
) Judge Patti B. Saris

**DECLARATION OF ROBERT F. LOPEZ IN SUPPORT OF PLAINTIFFS'  
A) MOTION TO STRIKE AND B) MOTION *IN LIMINE***

I, Robert F. Lopez, duly declare as follows:

1. I am one of the lawyers for the plaintiffs in the above-captioned matter. I submit this declaration in support of a) Plaintiffs' Motion To Strike References by the Schering-Plough Group in Their Opening Statement to Average Sales Prices for Schering-Plough and Warrick Drugs and b) Plaintiffs' Motion *in Limine* To Preclude the Introduction by the Schering-Plough Group of Evidence of ASPs for Schering-Plough and Warrick Drugs.

2. Attached as Exhibit A is a true and correct copy of Plaintiffs' Request for Production to Defendants Regarding HHS ASPs.

3. Attached as Exhibit B is a true and correct copy of the Response of Schering-Plough Corporation and Warrick Pharmaceuticals Corporation to Plaintiffs' Request for Production Regarding HHS ASPs.

4. Attached as Exhibit C is a true and correct copy of part of the transcript of the hearing held on September 27, 2004, to address, among other issues, plaintiffs' motion to compel

regarding the production of ASP-related information and materials. The attached excerpt concerns that motion to compel.

I certify under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of November, 2006.

**/s/ Robert F. Lopez**

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Robert F. Lopez



## **EXHIBIT A**